

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BROADCAST MUSIC, INC., et al.,

Plaintiffs,

v.

JMN RESTAURANT MANAGEMENT
CORP., et al.,

Defendants.

Case No. [3:14-cv-01190-JD](#)

ASSIGNMENT ORDER

Re: Dkt. No. 30

BACKGROUND

On October 10, 2014, the Court granted a motion for default judgment filed by a consortium of copyright holders (“BMI Group”) against defendants JMN Restaurant Management Corp. (d/b/a/ Spin-a-Yarn Restaurant) and Saki Kavaouniaris (together “Spin A Yarn”), alleged infringers of BMI Group’s copyrights. Dkt. No 25. A judgment in the amount of \$40,757.00 was then entered. Dkt. No 26. BMI Group apparently has not been able to collect on the judgment and now asks the Court to assign to it Spin A Yarn’s interest in payments from merchant banks or other processors of credit card payments that are related the operation of the Spin A Yarn restaurant. Dkt. No. 30. After Spin A Yarn failed to respond to the motion, the Court took it under submission pursuant to Civil Local Rule 7-1(b). Dkt. No. 31. The motion is granted.

DISCUSSION

The Federal Rules of Civil Procedure instruct that the procedure on execution of a money judgment in a federal district court must “accord with the procedure of the state” where the court is located (unless a federal statute controls, and none does here). Fed. R. Civ. P. 69(a)(1). California provides that a court may, upon noticed motion, order a judgment debtor to assign to a judgment creditor all or part of a right to payments “due or to become due, whether or not the right is conditioned on future developments.” Cal. Civ. Proc. Code § 708.510. The statute grants

1 courts broad discretion to order an assignment in light of “all relevant factors.” *Id.* A judgment
2 creditor need not provide “detailed evidentiary support” of the payments due or to become due,
3 but must only “describe [the sources of the right to payment] with sufficient detail so that
4 [d]efendants can file a claim of exemption or other opposition.” *Blue Grass Mfg. Co. of*
5 *Lexington, Inc. v. Beyond A Blade, Inc.*, No. 10–mc-80248-WHA, 2011 U.S. Dist. LEXIS 70556,
6 at *7 (N.D. Cal. May 5, 2011). And while California law establishes many exemptions to
7 enforcement of money judgments, those are generally waived unless the judgment debtor asserts
8 them in a timely fashion. Cal. Civ. Proc. Code § 703.030(a).

9 Because Spin A Yarn has failed to appear in this case despite proper service, the Court is
10 equipped only with the facts alleged by BMI Group. Most salient among them: Spin A Yarn has
11 not satisfied any of the judgment; Spin A Yarn continues to operate a restaurant in Fremont,
12 California; Spin A Yarn has ceased operating its previous corporate form, JMN Restaurant Corp.;
13 and approximately one year after the entry of default judgment, Spin A Yarn formed a new
14 corporation, Spin A Yarn Steak House Inc. (California Entity No. C3850777), with Mr.
15 Kavaounaris as its registered agent. Dkt. No. 30 at 2-3. BMI Group properly served its motion
16 upon both the original Spin A Yarn defendants and Spin a Yarn Steak House, Inc. *Id.* at 49.

17 On these facts, the Court finds that an assignment order is appropriate. Spin a Yarn has
18 apparently paid not a single cent of the judgment it owes BMI Group. *Id.* at 3. A year after entry
19 of the default judgment, Mr. Kavaouniaris shut down his previous restaurant-related corporation
20 and started a new one, listing the same registered address -- that of the Spin A Yarn restaurant. *Id.*
21 While it is conceivable that there exists a good reason for this change in corporate form, the record
22 before the Court does not show it and it seems likely that Spin a Yarn Steak House, Inc. is the
23 same Spin a Yarn entity under a slightly different name. BMI Group properly served the
24 assignment motion and defendants have received sufficient notice of the payments sought to be
25 assigned. *Id.* at 49; *see Blue Grass v. Beyond A Blade*, 2011 U.S. Dist. LEXIS 70556 at *7.
26 Based on the declarations provided by BMI Group, one or more merchant banks or other
27 processors of credit card payments regularly make payments to Spin A Yarn, and these payments
28 are assignable as accounts receivable. *See* Dkt. No. 30 at 16-49. And because the entry of an

1 assignment order does not immediately impact the rights of obligors, *see* Cal. Civ. Proc. Code §
2 708.540, it is irrelevant that BMI Group failed to serve any of the potential obligors (or to
3 establish that any potential obligors are actual obligors). *See Greenbaum v. Islamic Republic of*
4 *Iran*, 782 F. Supp. 2d 893, 897 (C.D. Cal. 2008).

5 The assignment order is also sufficiently specific. *Cf. Garden City Boxing Club, Inc. v.*
6 *Briano*, No. 06-1270, 2007 U.S. Dist. LEXIS 95086, at *3-4 (E.D.Cal. Dec. 13, 2007) (request for
7 a “general assignment of funds” is not sufficient to allow the court to consider the factors for
8 assignment listed in § 708.510(c)). While the assignment order is relatively broad, and does not
9 identify specific thirty party obligors, the Court finds it sufficiently specific because it is limited to
10 payments due to Spin a Yarn only from merchant banks or other processors of credit card
11 payments. This specific category of potential obligors gives Spin A Yarn ample notice of the
12 payments sought to be assigned by BMI Group, and is sufficiently specific for the Court to
13 determine the appropriateness of the assignment order pursuant to § 708.510(c). *See Blue Grass v.*
14 *Beyond A Blade*, 2011 U.S. Dist. LEXIS 70556 at *7.

15 CONCLUSION

16 JMN Restaurant Corp., Saki Kavaouniaris, and Spin a Yarn Steak House Inc. are ordered
17 to assign to BMI Group, through BMI Group’s counsel at the Aires Law Firm, all rights to
18 payment of money that is (1) due or to become due from any merchant bank or other processor of
19 credit card payments, (2) related to the operation of the “Spin A Yarn” restaurant located at 45915
20 Warm Springs Boulevard in Fremont, California, and (3) necessary to satisfy in full the judgment
21 entered in this action, which as of July 13, 2016 equaled \$40,828.80, inclusive of \$40,757.00 for
22 the original judgment and \$71.80 of post-judgment interest. Dkt. No. 30 at 2. This assignment
23 will remain in place until the payment is paid in full, including all accrued interest.

24 **IT IS SO ORDERED.**

25 Dated: August 29, 2016

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JAMES DONATO
United States District Judge